



Disclosure and Barring Service Checks Procedure

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Tracey Leghorn	19th August 2013	Natalie Kinsella
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V2.0	1 st November 2013	Additional changes for SPF Chairs

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Linked procedural documents	DBS Employing Persons with Criminal Convictions Procedure Volunteer Responder Policy Recruitment and Selection Policy Driving Licence Policy
Dissemination requirements	All managers and staff, via staff bulletins and the intranet
Part of Trust's publication scheme	Yes / No? YES

The East of England Ambulance Service NHS Trust has made every effort to ensure this policy does not have the effect of unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, sex, sexual orientation, marriage/civil partnership and pregnancy/maternity. The Trust will not tolerate unlawful discrimination on the basis of, spent criminal convictions, Trade Union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity for and

fostering good relations between; people from different groups and people with protected characteristics.

This policy applies to all employees (whether permanent, fixed term or temporary) working at all levels and grades for the Trust, including senior managers, directors, non-executive directors, and on secondment, honorary contracts and volunteers. All Trust policies can be provided in alternative formats if required.

East of England Ambulance Service Trust recognises its obligation of supporting the requirements of the Modern Slavery Act 2015 and any future legislations. A prime objective of the Trust is to eradicate modern slavery and human trafficking and recognises the significant part it must play in both combatting it and supporting victims. The Trust is also committed to ensuring that its supply chains and business activities are free from any ethical and labour standards abuse.

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1. Procedure Statement

- 1.1 The Trust is committed to implementing fair and effective procedure and practice in relation to all Disclosure and Barring Service (DBS) matters.

2. Scope

- 2.1 This Procedure applies to all:

- staff employed by the Trust.
- applicants to posts in the Trust.
- casual/bank workers.
- volunteers.
- Non-Executive Directors
- persons engaged through Employment Agencies.

3. Access to the Procedure

- 3.1 External applicants to posts, volunteers and persons engaged through Employment Agencies can seek guidance from the Recruitment Team on 01234 243200. All employees, applicants to posts, casual workers and volunteers are entitled to access to this procedure which is located in the HR Policies and Procedures Folders and/or on the Trust's Intranet. However, if you require this procedure in any other format, please seek guidance from the Human Resources Department, your line management, or Trade Union Representative.
- 3.2 Individuals and managers may also wish to consult related Trust policies such as the Secure Storage, Handling, Use, Retention & Disposal of Disclosures and Disclosures Information Procedure and Employing Persons with Criminal Convictions and Recruitment and Selection Policies/Procedures.

4. Roles and Responsibilities

- 4.1 It is the responsibility of all persons who apply to work (in either an employee, casual/bank, contract or voluntary basis), or hold a position within the Trust which is deemed by the Trust or legally to be subject to DBS Disclosure to notify the Trust of all convictions, cautions, reprimands or warnings at the earliest opportunity; this would be at the time of recruitment and/or as they arise subsequently.
- 4.2 It is also the responsibility of all persons who apply to work (in either an employee, casual/bank, contract or voluntary basis), or hold a position within the Trust which is deemed by the Trust or legally to be subject to DBS Disclosure to allow the Trust the opportunity to see and record relevant information from their DBS certificate prior to their start date in post. Applicants from overseas or those who have worked/travelled abroad for a period of more than 6 months within the last 5 years may be required to comply with other types of check and should seek advice from the Human Resources Department and refer to guidance provided by NHS Employers.
- 4.3 The Human Resources Department is responsible for keeping the provisions within this Procedure in line with employment legislation and best practice people management principles such as those set out in the DBS Code of Practice.
- 4.4 Managers, HR staff and trade union representatives are responsible for providing advice and guidance to employees on the application of this procedure. Advice for applicants, casual/bank workers and volunteers will be provided by the Human Resources Department.
- 4.5 Management and trade union representatives are responsible for bringing any mutually beneficial improvements to this procedure to the attention of the Trust.

5. About the Disclosure and Barring Service

5.1 The DBS is an Executive non-departmental body of the Home Office, which provides wider access to criminal record information through its Disclosure service. The DBS helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children and is responsible for the following:

- Processing requests for criminal records checks
- decides whether it is appropriate for a person to be placed on or removed from a barred list
- places or removes people from the DBS children's barred list and adults' barred list for England, Wales and Northern Ireland.

5.2 The DBS works with the police who provide information that is held locally or on the police national computer. The DBS also work with the following:

- Department for Education – who own the safeguarding Procedure for children
- Department of Health – who own the safeguarding Procedure for vulnerable groups
- Capita – private sector partner that operates an administration infrastructure and call Centre for our disclosure service
- Registered bodies – organisations that have registered with the DBS checking service.

6. Registered Body

6.1 The East of England Ambulance Service NHS Trust is registered with the DBS, and therefore is entitled to ask exempted questions under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) and the Police Act 1997 (Criminal Record) Regulations 2002 (as amended).

6.2 The Trust's role as a registered body is to:

- Check disclosure applications and validate information provided by the applicant

- Accurately and comprehensively verify the identity of the applicant prior to the submission of a Disclosure application
- Ensure that Disclosure applications are completed accurately and that all mandatory fields are completed in full
- Ensure that any person undertaking identity verification checks on their behalf is suitable and trained accordingly

7. DBS Code of Practice

7.1 As a registered body, the Trust is required to comply with the DBS's Code of Practice. It subsequently must use Disclosure Information fairly, and ensure that it is handled and stored appropriately.

7.2 The Code of Practice states that Disclosure information should only be used in the context of a Procedure on the recruitment of ex-offenders, designed to protect applicants from unfair discrimination on the basis of non-relevant past convictions. (Refer to the Trust's Employing Persons with Criminal Convictions Procedure)

7.3 The Code of Practice states that the storage, handling and disposal of Disclosure information is important and the Trust Procedure must have a written Procedure on the secure handling of Disclosure information. (Refer to Secure Storage, Handling, Use, Retention & Disposal of Disclosures and Disclosure Information Policy).

8. The Rehabilitation of Offenders Act (ROA) 1974

8.1 The ROA 1974 applies to England, Scotland and Wales and is aimed at helping people who have been convicted of a criminal offence and who have not re-offended since.

8.2 Anyone who has been convicted of a criminal offence, and received a sentence of not more than 4 years in prison benefits as a result of the Act, if he or she is not convicted again during a specified period otherwise known as the 'rehabilitation period'. The length of this period depends on the sentence given for the

original offence and runs from the date of the conviction. If the person does not re-offend during this rehabilitation period, they become a 'rehabilitated person' and their conviction becomes 'spent'. (Refer to Employing Persons with Criminal Convictions Procedure for details of periods).

8.3 Sentences can carry fixed or variable rehabilitation periods and these periods can be extended if the person offends again during the rehabilitation period. However, if the sentence is more than 4 years in prison or public protection sentence, the conviction never becomes 'spent'. It is the sentence imposed by the courts that counts, even if it is a suspended sentence, not the time actually spent in prison.

8.4 Once a conviction is 'spent' the convicted person does not normally have to reveal it or admit its existence in most circumstances. However, this is not the case for persons working with children or vulnerable adults. These roles/jobs are, exempt from the Rehabilitation of Offenders Act (see Section 9 below).

9. Exemptions to the Rehabilitation Offenders Act

9.1 Various kinds of employment, occupations and professions are exempt from the Rehabilitation of Offenders Act. This means that the employment rights of an ex-offender in respect to convictions are overruled. Exoffenders therefore have to disclose information about unspent convictions including any convictions, cautions, reprimands or warnings which would not be filtered in line with the legislation that came into force on the 29 May 2013 regarding filtering See 9.4 and 9.5 below.

9.2 Exempted occupations fall into the following categories:

- Work that brings the person into contact with vulnerable groups such as the infirm, elderly, mentally ill and young people under 18;
- Posts concerned with the administration of justice, for example, police officers, lawyers;

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- Professions that have legal protection, for example, nurses, doctors, dentists, accountants, chemists etc;
- Health Service appointments;
- Work involving matters of national security.

9.3 A non-exhaustive list of examples of posts in the Trust which are therefore exempt from the Rehabilitation of Offenders Act include:

- All persons working in a frontline A&E capacity;
- All Patient Transport staff and managers;
- All Ambulance Operations Centre (AOC) staff.
- Staff responders;
- First responders;
- Volunteer car drivers.
- Trust Directors and the Chief Executive (where appropriate and in line with Fit and Proper Person procedure).

9.4 On the 29 May 2013, legislation came into force that means that convictions are no longer subject to disclosure under the Exception Order (1975), this is known as filtering. In addition, employers will not be able to take certain old and minor cautions and convictions into account when making decisions about an individual and their employment with the Trust.

9.5 Under the new provisions of the Exceptions Order 1975 (2013) as described in 9.4 above, all cautions and convictions for specified serious violent and sexual offences and other specified offences of relevance for posts concerned with safeguarding children and vulnerable adults will remain subject to disclosure. In addition, all convictions resulting in a custodial sentence will remain subject to disclosure. Guidance on the filtering rules and offences that will never be removed from a certificate can be found at www.gov.uk/dbs.

10. Notifiable Professions

10.1 Home Office guidelines place all ambulance clinicians (including care assistants, technicians, paramedics and ECPs)

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whether working in a paid or on a voluntary basis, in Category 1 of the notifiable occupations scheme. This is the same as, for instance, doctors, and means that there is a presumption on the part of police services to notify the Trust about all recordable convictions, cautions, reprimands and final warnings which arise.

10.2 Minor offences such as traffic offences which may have a material bearing on a person's work will also be reported to the Trust by the police service.

10.3 In addition, where someone is employed to work with children or vulnerable adults is under suspicion of an offence of violence or a sexual offence, notification would normally be given by the police service whilst the investigation is underway and is likely to be forwarded in the first instance to the Health and Care Profession Council (HCPC) and then forwarded to the Trust's Chief Executive.

11. Levels of Criminal Record and Barring Check

11.1 Where the position the Trust is recruiting to is regarded as eligible for a standard or enhanced DBS disclosure under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) and the Police Act 1997 (Criminal Record) Regulations 2002 (as amended), i.e. request that a DBS criminal record check be undertaken by an individual, there are four levels of check currently available through the Disclosure and Barring Service. The four levels include:

- **Basic Check:** These show unspent convictions and conditional cautions.
- **Standard Checks:** These contain details of both current unspent and spent convictions, cautions, reprimands and final warnings, held in England and Wales on the Police National Computer that are not subject to the filtering rules which came into force from 29 May 2013.
- **Enhanced Check without barred list information** These contain the same details as the Standard check but may also

include any non-conviction information held by local police, where they consider it to be relevant to post.

- **Enhanced check with barred list information:** These contain the same details as the Enhanced Check but includes information on whether someone is included in the two DBS 'barred lists' (previously called ISA barred lists) of individuals who are unsuitable for working with children and/or adults.

12. Who is Required to Undertake a DBS Criminal Record Check and at What Level

12.1 The Trust will request that a DBS criminal record check be undertaken where:

- the position to be filled involves a degree of risk; or where,
- there is a legal requirement to do so (as per Sections 9 above).

12.2 Whilst the DBS Code of Practice advises us that the level of DBS Disclosure required should always be as determined appropriate for specific roles, the nature of the work of the Trust where working with vulnerable adults and children is integral to our activities, means that all DBS Disclosures will be undertaken at Enhanced Level with barred list information. The only exception to this, where a Standard Level Disclosure may be determined more appropriate, would be a post where there was no contact whatsoever with vulnerable adults and/or children and the level of risk identified deemed an enhanced level disclosure unsuitable. Such decisions would be made, by exception, by the Head of HR, or as specifically delegated by the Head of HR, who is the DBS Lead Counter-signatory for the Trust.

12.3 A non-exhaustive list of examples of posts which will be subject to a DBS Disclosure at Enhanced level with barred list information include:

- All persons working in a frontline A&E capacity;
- All Non-emergency service staff and managers;
- All Ambulance Operations Centre (AOC) staff;

- All bank frontline, NES or AOC workers
- Staff responders;
- First responders;
- Volunteer car drivers;
- Trust Directors and the Chief Executive (where appropriate).

13. When Will a DBS Checks be Undertaken

13.1 All applicants for employment or volunteering posts within the Trust which are exempt from the Rehabilitation of Offenders Act will be subject to a disclosure during the Trust's recruitment process (refer to Employing People with Criminal Convictions Procedure).

13.2 All persons within the Trust who change roles, including secondments that are managed through a recruitment process, and undertake a role which is exempt from the Rehabilitation of Offenders Act, irrespective of when they joined the Trust, or when they last completed a DBS disclosure, are required to complete a new disclosure application during the recruitment process, unless the individual is a member of the DBS Update Service, as outlined in Section 14 below.

13.3 The Trust reserves the right to request any person within the Trust, who undertakes a role which is exempt from the Rehabilitation of Offenders Act, to undertake a DBS Disclosure. Such requests may include where concerns have been raised about an employee, or when students move into university or hospital placements* (*this list is not exhaustive).

13.3.1 Failure to engage in this process may lead to disciplinary action as having a DBS check which is deemed satisfactory to the Trust is a condition of employment of anybody whose post requires one. Managers should seek advice from the HR department before taking any further action.

13.4 Further information can be sought from the DBS website at <https://www.gov.uk/disclosure-barring-service-check> or NHS Employers at <http://www.nhsemployers.org>

- 13.5 Positive (unclear) DBS disclosures will be managed via the appropriate and agreed internal process in line with the Trust DBS Employing Persons with Criminal Convictions Procedure.

14 DBS Update Service

- 14.1 The DBS update service is an online subscription service which lets an individual keep their standard and enhanced DBS certificates up to date and allows employers to check a certificate online, with the individual's consent, to see if any relevant information has been identified about the individual since their DBS certificate was last issued. Registration lasts for one year. The service costs £13 per year (cost to be borne by the individual) and starts from the date your DBS certificate was issued. The subscription is free for volunteers. If you join the Update Service using your application form reference number, your application must be received by the DBS within 28 days of you joining. You can also join the Update Service when you receive your DBS certificate, by using your certificate number. If you choose to do this, you must join the Update Service within 30 days of 'date of issue' displayed on your certificate. If you applied for a DBS check through an e-bulk Registered Body, you could join the Update Service using your e-reference whilst your check is being processed. The e-bulk provider will be able to provide your e-reference number. You can also use your DBS certificate number within 30 calendar days from the 'date of issue' displayed on your certificate. The Trust cannot register with the DBS update service on behalf of an individual.
- 14.2 Individuals are required to provide a copy of the original DBS Certificate upon request from the trust, which is linked to the DBS update service subscription, to allow the trust to verify the DBS information via an online update service check.
- 14.3 All new volunteer responders associated with the Trust are required to join the DBS Update Service and will be subject to annual checks. Existing volunteers will be required to join the DBS Update Service at the point the Trust requests a new DBS

disclosure to be completed. Volunteers should refer to the Trust Volunteer Responder Policy. However, DBS does not charge for any volunteer applications so individuals will not be required to pay the subscription fee outlined in 14.1.

14.4 When an individual produces their certificate to the Trust they will be required to complete a disclosure recording form which will include signed consent to the Trust periodically checking their record to maintain continued assurance that they are suitable for the role they are undertaking.

14.5 Failure to engage in this process may lead to disciplinary action as having a DBS check which is deemed satisfactory to the Trust is a condition of employment of anybody whose post requires one. Managers should seek advice from the HR department before taking any further action.

15.0 Policy Review

This policy will be reviewed on every 3 years or amended in the light of new employment legislation and/or relevant case law.

Appendix A - Equality Impact Assessment

EIA Cover Sheet		
Name of process/policy	Disclosure and Barring Service Checks Procedure	
Is the process new or existing? If existing, state policy reference number	V 4.0	
Person responsible for process/policy	Natalie Kinsella	
Directorate and department/section	Workforce	
Name of assessment lead or EIA assessment team members	EqIA Panel Members	
Has consultation taken place? Was consultation internal or external? (please state below):	Internal	
The assessment is being made on:	Guidelines	
	Written policy involving staff and patients	
	Strategy	
	Changes in practice .	
	Department changes	
	Project plan	
	Action plan	

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	Other (please state) Training programm e	DBS PROCEDURE
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EQUALITY ANALYSIS

What is the aim of the policy/procedure/practice/event?

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Who does the policy/procedure/practice/event impact on?					
Race	X	Religion/belief	X	Marriage/Civil Partnership	X
Gender	X	Disability	X	Sexual orientation	X
Age	X	Gender re-assignment	X	Pregnancy/maternity	X
Who is responsible for monitoring the policy/procedure/practice/event? Workforce					
What information is currently available on the impact of this policy/procedure/practice/event? Previous procedures have been updated.					
Do you need more guidance before you can make an assessment about this policy/procedure/ practice/event? No					
Do you have any examples that show that this policy/procedure/practice/event is having a positive impact on any of the following protected characteristics? Yes/No, If yes please provide evidence/examples:					
Race		Religion/belief		Marriage/Civil Partnership	
Gender		Disability		Sexual orientation	
Age		Gender re-assignment		Pregnancy/maternity	
Please provide evidence:					
The Procedures is for all employees and volunteers employed by the Trust and does not display has signs of inequality.					
Are there any concerns that this policy/procedure/practice/event could have a negative impact on any of the following characteristics? Yes/No, if so please provide evidence/examples:					

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Race		Religion/belief		Marriage/Civil Partnership	
Gender		Disability		Sexual orientation	
Age		Gender re-assignment		Pregnancy/maternity	
Please provide evidence: NO					
Action Plan/Plans - SMART Specific Measurable Achievable Relevant Time Limited					
Evaluation Monitoring Plan/how will this be monitored? Who How By Reported to					